

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105

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NOTES AND ACTION ITEMS SUMMARY

Friday, September 21, 2018 | 10:00 a.m. – 4:00 p.m.

**California Commission on Access to Justice In Person Meeting
San Francisco State Bar Office**

Roll Call

Commissioners

Judge Mark Juhas
Catherine Blakemore
John Adkins
Daisy Alfaro
David Daniels
Judge Timothy Dillon
Amos Hartston
Janis Hirohama
Judge Lisa Jaskol
Anne Murphy
Lisa Pruitt
Panida Rzonca
Johanna Valle Sobalvarro

Ex Officio

Justice Earl Johnson
Jack Londen
Jim Meeker
Justice Ronald Robie
Toby Rothschild
Michael Levy
Mary Kelly

Board of Trustees

Debbie Manning

Staff

Brady Dewar
Donna Hershkowitz
Doan Nguyen
Andrew Tuft

Public

Salena Copeland
Greg Fortescue
Carin Fujisaki
Lorin Kline
Chris Punongbayan

I. WELCOME

A. Roll Call

Judge Juhas called the meeting to order and welcomed the attendees. Roll call was taken; a quorum was established.

B. Call For Public Comment

Judge Juhas invited any member of the public to comment on any items on the agenda. No one from the public responded.

C. Introduction of Members

Members of the California Commission on Access to Justice, as well as others present, provided brief introductions of themselves.

II. CONSENT

A. Approval of July 16 and August 16, 2018 Meeting Minutes

A motion to approve the minutes of the July 16 and August 16, 2018 meetings was made by Judge Jaskol, seconded by Amos Hartston, and unanimously approved by voice vote.

III. REPORTS

A. Chair's Report

Judge Juhas deferred his update until agenda item IV.

B. Board of Trustees Report

Trustee Debbie Manning introduced herself and noted that she has been appointed as the Board Liaison to the CCAJ.

C. Office of Access & Inclusion Report

Andrew Tuft, Acting Program Director of the Office of Access & Inclusion, introduced himself. Andrew reported that the State Bar commissioned a new task force to study technology and the delivery of legal services. The Task Force on Access Through Innovation of Legal Services will be comprised of 15 members with a non-lawyer majority. An email will be released to legal services providers today about this initiative along with an application to join and a fact sheet. Andrew encouraged CCAJ members to apply as well as forward the announcement to interested parties. Catherine Blakemore made note that technology could afford beneficial solutions to legal issues, but that issues of accessibility and adaptability should be ensured. Salena Copeland mentioned that there's a cohort in the legal aid community that regularly provide comment on technology; LAAC also hosts a Tech Summit and LAAC would share the information.

IV. DISCUSSION/ACTION ITEMS

A. Develop Options for Commission Structure and Procedures for Access Commission Stakeholder Engagement Process

Judge Juhas provided an overview of the Appendix I Review and Stakeholder Engagement Process. The State Bar has undergone tremendous change in the last few years, and has been in the process of reviewing all Committees, Commissions, Councils, and Boards to improve governance and accountability. These efforts to improve governance and make decision making processes more accountable, manageable, and more efficient has been

going on for the past 18 months to two years; Bar staff was prepared to make a recommendation at the September Board of Trustees meeting on CCAJ, as was done with most other sub-entities, but upon staff recommendation, the Board decided to delay a final decision (along with the Legal Services Trust Fund Commission), until a stakeholder engagement working group process is completed.

Judge Juhas encouraged the group to brainstorm what the path forward for CCAJ might look like. The Stakeholder Engagement Process will include a series of three meetings that will explore what the Commission should look like and what the governance structure will be.

CCAJ members discussed various governance options, including maintaining the status quo, spinning off into a separate entity, or adopting a hybrid model while remaining in the Bar.

Judge Juhas also mentioned that the Chief Justice was at the last Board of Trustees meetings, where she underscored the importance of access to justice.

CCAJ members broadly discussed the pros and cons of staying with the Bar, as well as other options. Michael Levy remarked that access to justice is about the rule of law. He stated that it was essential that this body have autonomy to speak independently and shouldn't have its message questioned. It shouldn't be about motive but about access. Michael Levy said CCAJ should consider moving elsewhere if it wants to speak freely.

Members discussed whether remaining under the Bar and becoming an advisory body would allow the Commission to do its important work. Judge Juhas asked whether there could be some middle approach, and Catherine Blakemore asked the group to think about what are the critical functions of CCAJ. Several members expressed that it was important for CCAJ to make recommendations and issue reports. Perhaps an Amicus Committee that would be purely independent could be formed to submit amicus briefs in appropriate appellate cases.

Donna Hershkowitz mentioned that the Board of Trustees determined in September that the default Committee size was to be seven members. Justice Robie felt that a seven member Commission was insufficient to represent a broad based constituency. Some Commission members stated they believed the size of the CCAJ should be increased not decreased, and there was a need for more rural representation.

Other Commission members, including Amos Hartston raised the possibility of a hybrid structure, where the independence of the Commission on some important issues would be afforded. Others, including Salena Copeland, echoed the importance of independence on

some issues, such as amicus, positions on legislation, and independent ability to deal with other entities. The value of having a diversity of opinions was remarked upon by several members.

Catherine Blakemore summed up the discussion by stating there seems to be some general consensus that certain areas of CCAJ's work needs complete independence. Catherine Blakemore raised the question of funding and how to fund certain aspects of CCAJ's work that would be independent. Previously a lot of the work of the Commission was done through volunteers, but that's not feasible. Perhaps could add \$1 or \$2 in licensing fee bill for Access work. Salena remarked that staying with the State Bar could be less costly.

Other members remarked that there could be benefit in CCAJ being independent so that it is clear that the positions of the Access Commission are driven only by concerns about access, and not impacted by other considerations of a broader entity. The stakeholder process is intended to further flesh out these tough questions, including what a hybrid model could look like.

Members of the public commented that the CCAJ created a space for lawyers and judges to work together and we should not move towards a structure that curtails that, and another commenter encouraged Commission members to identify its highest value as it contemplates various options.

Judge Juhas concluded the discussion by asking if anyone was interested in joining the stakeholder working group to let him know.

B. California Justice Gap Study Presentation

Presentation provided by State Bar Staff Catherine Borgeson from the Office of Access & Inclusion and Justin Ewert from the Office of Research and Institutional Accountability. State Bar plans to undertake a justice gap study in California that is modeled after the Legal Services Corporation's justice gap study. The study is slated to be completed no later than the end of 2019. The study will also evaluate the impact of the cost of legal education, on access, and how to address that. The State Bar is looking to contract with NORC (the entity LSC contracted with for its study in 2017) to provide a California specific household panel survey. Staff sought Commission input on whether, in addition to surveying those below 125% of the federal poverty level, to also survey those at higher income levels to get a broader understanding of the justice gap. At the conclusion of that part of the discussion, it was determined it would be appropriate to have two panels: (1) 125% of poverty, or less; and (2) not dependent on income. The same question sets will be asked of both panels. Commission members were asked for input as to California specific questions to be added or questions that could be deleted. Jim Meeker commented that the survey doesn't ask about age and seems to switch units of analysis for gender. Jim also questioned why the

survey didn't ask for specific income instead of income groupings. Catherine asked how disability was being handled in the survey and how to inquire about institutionalized groups. The importance of addressing language diversity was also mentioned.

Staff sought Access Commission representatives for 2 subcommittees, one on the data gathering piece, and one on the impact of law school costs on access. Jim Meeker volunteered for the first subcommittee; Lisa Pruitt and Daisy Alfaro volunteered for the 2nd working group.

C. Administrative Agency Report

Mike Levy provided a final review. Catherine Blakemore and Panida Rzonca also reviewed for language access issues and felt comfortable with the report. Several members commented that this was a really important report. We need to determine a distribution plan. One idea was to distribute it to the heads of administrative agencies. Kelly provided background on the report and how it began as law review article in 2014. This will be especially helpful in county offices, where it was difficult for clients to navigate the system.

A motion to approve issuing the report with understanding that Catherine and Panida would work on the report a bit more was made by Lisa Pruitt, seconded by Amos Hartston, and unanimously approved on voice vote.

D. Committee Reports

a. Modest Mean Committee

Successful Planning for the Modern Law Practice Guide which was adapted from the Colorado guide is almost complete; awaiting review from Judge Juhas.

b. Pro Bono Coordinating Committee

PBCC is updating the pro bono directory and still monitoring legislative developments that promote pro bono, such as mandatory pro bono reporting, and helping to refresh the toolkit for judges.

c. Rural Task Force

RTF will be developing a series of four policy papers, addressing the following issues: (1) rural attorney desert; (2) natural disasters; (3) housing; and (4) immigration. The Committee is also working on a one-page paper highlighting the deficit in rural funding, with the goal to complete all papers by December.

d. Judicial Branch Support Committee

This committee has been asked to standby, but can potentially look at issues concerning administrative law judges.

e. Language Access Committee

Johanna Valle Sobalvarro had left the meeting and this committee was not discussed.

f. Right to Counsel Committee

The Committee continues to monitor statewide and nationwide movements, and see how California can support. There was a suggestion that data information might be a good way to offer support, including making Shriver data more usable.

V. COMMUNITY LIAISON UPDATES

a. LAAC Report

LAAC reported successfully co-hosting the Self-Help Family Law Conference with the Judicial Council. They are working with State Bar staff to plan the Pathways to Justice conference. LAAC's legislative priority this year will be LRAP, and they will convene focus groups at law schools to gather information.

b. Judicial Council

Bonnie Hough provided a Judicial Council liaison report.

Bonnie highlighted the conference on family law and self-help that was co-sponsored with LAAC. It was very successful with over 230 participants. It included lots of substantive law classes, and also had a strong focus on rural and hard service populations.

ADJOURNMENT

There being no other business, Judge Juhas moved to adjourn the meeting.